

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

UNITED STATES OF AMERICA,)
)
 v.) Criminal No. 5:21-cr-23
)
 RICHARD E. MOORE)

**GOVERNMENT’S THIRD NOTICE REGARDING
INTENT TO INTRODUCE SELF-AUTHENTICATING
RECORDS AT TRIAL UNDER RULES 902(11) AND 902(4)**

Now comes the United States and gives notice of its intent to introduce certain records by certification pursuant to Rules 803(6), 902(11), and 902(4) of the Federal Rules of Evidence.¹ The records, as described below, were previously provided to the defendant in the course of discovery.

Exhibit 1 to this notice contains a Rule 902(11)-compliant certificate executed by a custodian at ADP, Inc. on January 15, 2024, which covers payroll records from 2021 and 2022. The government has previously produced these records to the defendant as Bates MOORE_USAPROD 0507760 through MOORE_USAPROD 0512966.

Exhibit 2 to this notice contains three Rule 902(11)-compliant certificates executed by a custodian at DuPont Community Credit Union. The certificates, signed on May 7, 2024; June 14, 2024; and June 25, 2024, cover bank records for accounts ending 943, 258, 732, 724, and 558 from

¹ Rule 902(11) provides in pertinent part for the self-authentication of “a domestic record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written declaration of its custodian or other qualified person . . . certifying that the record: (A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; (B) was kept in the course of the regularly conducted activity; and (C) was made by the regularly conducted activity as a regular practice.”

Rule 902(4) provides in pertinent part for the self-authentication of “[a] copy of an official record — or a copy of a document that was recorded or filed in a public office as authorized by law — if the copy is certified as correct by: (A) the custodian or another person authorized to make the certification.”

January 1, 2021 through June 2024. The government has previously produced these records to the defendant as Bates MOORE_USAPROD_0526574 through MOORE_USAPROD_0528063 and MOORE_USAPROD_0572517 through MOORE_USAPROD_0573151.

Exhibit 3 to this notice contains a Rule 902(11)-compliant certificate executed by a custodian of North American Banking Company, on March 19, 2024, which covers bank records for accounts relating to Subversivo from August 2022 through April 2023. These records have previously been produced to the defendant as Bates MOORE_USAPROD_0569191 through MOORE_USAPROD_0570018.

Exhibit 4 to this notice contains a Rule 902(11)-compliant certificates executed by a custodian of Citizens Bank, N.A., on April 4, 2024, which covers bank records for accounts relating to Subversivo from March 2023 through March 2024. These records have previously been produced to the defendant as Bates MOORE_USAPROD_0567078 through MOORE_USAPROD_0569190.

Exhibit 5 to this notice contains a Rule 902(11)-compliant certificate executed by a custodian of Subversivo, LLC, which covers records produced by the corporation. These records have previously been produced to the defendant as Bates MOORE_USAPROD_0573635 through MOORE_USAPROD_0573670.

In addition, the government gives notice that it intends to offer copies of records on file with the Virginia Department of Taxation. These records bear Rule 902(4)-compliant certifications executed by Michael Palmer, the Disclosure Officer with the Virginia Department of Taxation. These records have previously been produced to the defendant as Bates MOORE_USAPROD_0526348 through MOORE_USAPROD_0526496. Because the certifications for the Virginia Department of Taxation records are voluminous (consisting of more than a hundred pages), the

government has not attached all of them to this notice, but it has attached an example of one such certification at Exhibit 6.

Pursuant to Rules 803(6), 902(11), and 902(4) of the Federal Rules of Evidence, the government will offer the above exhibits as self-authenticating records of a regularly conducted activity or as copies of official records.

This 5th day of November, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that I have this date electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

This 5th day of November, 2024.

/s/ William M. Montague
William M. Montague
Trial Attorney
U.S. Department of Justice
Tax Division